

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,  
Plaintiff,

CASE NO. CR. 03-0095 WBS

v.

ORDER RE: RENEWED MOTION  
FOR SUBSTITUTION OF COUNSEL

AMR MOHSEN and ALY MOHSEN,  
Defendants.

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The court is in receipt of a Renewed Notice of Motion for Substitution of Counsel, filed by attorneys Dennis P. Riordan and Marc J. Zilversmit, asking to be substituted as counsel of record for defendant Amr Mohsen and requesting at the same time that the sentencing hearing scheduled for December 8, 2006 be continued to some date after December 15, 2006.

In response to Mr. Riordan's earlier request on August 22, 2006 for permission to substitute as counsel of record for Mr. Mohsen, which like the present request was also conditioned on a continuance of the sentencing date, the court previously

1 indicated that it would have no objection to the substitution of  
2 Mr. Riordan and Mr. Zilversmit, but declined to further continue  
3 the sentencing date. On August 29, 2006, Mr. Riordan withdrew  
4 his request and advised that he did not intend to substitute in  
5 as counsel for Mr. Mohsen under the circumstances.

6 The renewed request, which comes two weeks before the  
7 date of sentencing, appears to be but a transparent attempt to  
8 again delay the day of judgment. Mr. Riordan and Mr. Zilversmit  
9 have had more than three months to prepare for this sentencing  
10 hearing if they seriously intended to ask for permission to  
11 substitute in as counsel for Mr. Mohsen. There was no legitimate  
12 reason for waiting until the last minute to make the request.

13 The court shares the government's concern that if the  
14 requested continuance is granted it will simply be the first step  
15 in a renewed effort to reopen the post-judgment motions, which  
16 the court has previously denied. The declaration in support of  
17 the motion indicates that Mr. Riordan will be involved in a  
18 murder trial beginning December 4, 2006. It does not state how  
19 long that trial is expected to last. Neither does it state that  
20 Mr. Riordan could not be excused from that trial for a half day  
21 to appear at the sentencing hearing, nor why Mr. Zilversmit could  
22 not be available for the sentencing hearing.

23 The court reiterates that if either Mr. Riordan or Mr.  
24 Zilversmit, or both of them, as defendant's counsel of choice,  
25 wish to substitute in as counsel of record for Mr. Mohsen at the  
26 sentencing hearing on December 8, 2006, they will be heard at  
27 that time. However, for reasons which the court has previously  
28 expressed, the ends of justice would not be served by any further

1 continuances of the judgment and sentence. The request for a  
2 continuance is therefore DENIED.

3 DATED: November 28, 2006

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5 WILLIAM B. SHUBB

6 UNITED STATES DISTRICT JUDGE